

REMARKS

Claims 1-19 are pending in the present application. Entry of this Response and further examination of the application in view of the following remarks is hereby requested.

Statement Concerning Common Ownership

Applicant notes that all pending claims 1-19 were rejected under 35 U.S.C §103(b) as being unpatentable over *Bayley, et al.* (U.S. Patent No. 6,552,223). Applicant, Qualcomm, Inc., hereby certifies, in accord with MPEP ¶706.02(l)(2), that it is the assignee of *Bayley, et al.*, and the present application. Applicant further certifies that *Bayley, et al.* and the present application were commonly owned by Qualcomm, Inc., at the time the inventions were made because the inventions were subject to an obligation of assignment.

Rejection under 35 U.S.C. §103

The Office Action rejected Claims 1-19 under 35 U.S.C §103(a) as being unpatentable over *Bayley, et al.* (U.S. Patent No. 6,552,223) in view of *Hsu, et al.*, (U.S. Patent No. 6,587,684). Applicant respectfully traverses this rejection because *Bayley, et al.*, is not available as a reference under 35 U.S.C §103(c).

Bayley, et al., issued on April 22, 2003, with a filing date of December 30, 1999, and the present application was filed on April 3, 2001. Because *Bayley, et al.* was published at its issuance over two years from the filing date of the present application, it can only be available as a reference against the present application under sections (e), (f) or (g) of 35 U.S.C. §102. MPEP ¶706.02(f)-(h). As certified above, Applicant is the common owner of *Bayley, et al.*, and the present application, and in accord with 35

U.S.C. §103(c), *Bayley, et al.*, is disqualified as prior art against the present invention and cannot be used to reject the claims as obvious under 35 U.S.C. §103(a). See MPEP ¶706.02(I)(1).

Claim 1

The Office Action rejected Claim 1 relying on the combination of *Bayley, et al.*, disclosing a wireless telephone and corresponding circuitry, and in view of *Hsu, et al.*, stating that *Hsu, et al.* "teaches in an analogous art" that it is known to store a recall program in the storage of the wireless phone in to order to provide an arrangement in a digital wireless communication system for downloading updated software to a digital wireless telephone. Applicant traverses this ground of rejection and the statements regarding the disclosure of the references.

As shown above, Applicant is the common owner of *Bayley, et al.*, and the present invention. Therefore, *Bayley, et al.*, cannot be used as a reference to reject the claims of the present application. Further, as *Bayley, et al.* is the primary reference, the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 1. Because all elements of the rejected claim must be shown to reject Claim 1 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection be withdrawn.

Claim 2

Claim 2 was rejected as unpatentable stating that *Bayley, et al.* further discloses the additional claimed element of downloading one or more applications to the storage of the wireless device. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 2,

as shown above, and consequently, this ground of rejection against Claim 2 should be withdrawn.

Claim 3

Claim 3 was rejected as unpatentable, stating that *Bayley, et al.* disclosed all elements of the claims, except the wireless downloading of a recall program, and that *Hsu, et al.*, provided this absent element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 3, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 3. Because all elements of the rejected claim must be shown to reject Claim 3 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 3 should be withdrawn.

Claim 4

Claim 4 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed a wireless telephone, and its storage and circuitry, and that *Hsu, et al.*, provided the remaining claim elements to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 4, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 4. Because all elements of the rejected claim must be shown to reject Claim 4 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 4 be withdrawn.

Claim 5

Claim 5 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed "all particulars of the claim except the wireless telephone receiving a recall command via a wireless network," and that *Hsu, et al.*, provided the remaining claim element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 5, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 5. Because all elements of the rejected claim must be shown to reject Claim 5 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 5 be withdrawn.

Claim 6

Claim 6 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed "all particulars of the claim except receiving a recall message containing instructions to obtain the recall command from a recall command source," and that *Hsu, et al.*, provided the remaining claim element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 6, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 6. Because all elements of the rejected claim must be shown to reject Claim 6 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 6 be withdrawn.

Claim 7

Claim 7 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed "all particulars of the claim except polling messages," and that *Hsu, et al.*, provided the remaining claim element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 7, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 7. Because all elements of the rejected claim must be shown to reject Claim 7 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 7 be withdrawn.

Claim 8

Claim 8 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed "all particulars of the claim except the identified application programs being resident upon the wireless telephone," and that *Hsu, et al.*, provided the remaining claim element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 8, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 8. Because all elements of the rejected claim must be shown to reject Claim 8 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 8 be withdrawn.

Claim 9

Claim 9 was rejected as unpatentable and it was argued that "*Bayley, et al.* disclosed all the particulars of the claim except the wireless telephone receiving a recall command via a wireless network," and that *Hsu, et al.*, provided the remaining claim element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 9, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 9. Because all elements of the rejected claim must be shown to reject Claim 9 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 9 be withdrawn.

Claim 10

Claim 10 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed installing a recall program in the storage of the wireless phone, and that *Hsu, et al.*, provided the element of installing a recall program in the storage in order to provide an arrangement in a digital wireless communications system for downloading updated software to a digital wireless telephone. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 10, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 10. Because all elements of the rejected claim must be shown to reject Claim 10 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 10 be withdrawn.

Claim 11

Claim 11 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed "all particulars of the claim except a recall command," and that *Hsu, et al.*, provided the remaining claim element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 11, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 11. Because all elements of the rejected claim must be shown to reject Claim 11 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 11 be withdrawn.

Claim 12

Claim 12 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed providing wireless telephone circuitry including storage and providing processing circuitry; and that *Hsu, et al.*, provided the element of installing a recall program in the storage in order to provide an arrangement in a wireless communications system for downloading updated software to a digital wireless telephone. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 12, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 12. Because all elements of the rejected claim must be shown to reject Claim 12 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 12 be withdrawn.

Claim 13

Claim 13 was rejected under 35 U.S.C. §103(a) stating that *Bayley, et al.* further discloses the additional claimed element of the processing circuitry comprising application-specific integrated circuitry. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 13, as shown above, and consequently, this ground of rejection against Claim 13 should be withdrawn.

Claim 14

Claim 14 was rejected under 35 U.S.C. §103(a) stating that *Bayley, et al.* further discloses the additional claimed element of a download client configured to download one or more application programs to the storage. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 14, as shown above, and consequently, this ground of rejection against Claim 14 should be withdrawn.

Claim 15

Claim 15 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed "all particulars of the claim except the wireless telephone receiving a recall command via a wireless network," and that *Hsu, et al.*, provided the remaining claim element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 15, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 15. Because all elements of the rejected claim must be shown to reject Claim 15 as obvious under 35

U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 15 be withdrawn.

Claim 16

Claim 16 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed "all particulars of the claim except receiving a recall message containing instructions to obtain the recall command from a recall command source," and that *Hsu, et al.*, provided the remaining claim element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 16, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 16. Because all elements of the rejected claim must be shown to reject Claim 16 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 16 be withdrawn.

Claim 17

Claim 17 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed "all particulars of the claim except polling messages," and that *Hsu, et al.*, provided the remaining claim element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 17, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 17. Because all elements of the rejected claim must be shown to reject Claim 17 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 17 be withdrawn.

Claim 18

Claim 18 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed "all particulars of the claim except the identified application programs being resident upon the wireless telephone," and that *Hsu, et al.*, provided the remaining claim element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 18, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 18. Because all elements of the rejected claim must be shown to reject Claim 18 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 18 be withdrawn.

Claim 19

Claim 19 was rejected as unpatentable and it was argued that *Bayley, et al.* disclosed "all particulars of the claim except the wireless telephone receiving a recall command via a wireless network," and that *Hsu, et al.*, provided the remaining claim element to the suggested combination. Applicant traverses this rejection and the statements regarding the disclosure of the references. *Bayley, et al.*, is disqualified from use against Claim 19, as shown above, and the remaining reference *Hsu, et al.*, has not been argued or shown to disclose all elements of rejected Claim 19. Because all elements of the rejected claim must be shown to reject Claim 19 as obvious under 35 U.S.C. §103 (MPEP ¶706.02), Applicant requests that this ground of rejection against Claim 19 be withdrawn.

Prior Art Made of Record

Applicant has reviewed the prior art made of record in the Office Action and not relied upon to reject any claim. Applicant is in agreement with the Examiner that the references are pertinent to Applicant's disclosure but do not anticipate or render obvious, either individually or in combination, any pending claim of the application.

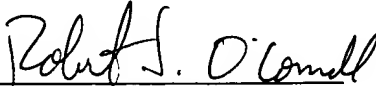
CONCLUSION

In view of the foregoing remarks, Applicant respectfully submits that Claims 1-19 are in condition for allowance and notification to that effect is earnestly solicited. If necessary, the Examiner is invited to telephone Applicant's attorney at (858) 651-4361 to facilitate prosecution of this application.

No additional fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees which may be required, including any necessary extensions of time, which are hereby requested, to Deposit Account No. 17-0026.

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Respectfully submitted,


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